

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>3/10/10</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EXPORT-IMPORT BANK OF THE
UNITED STATES,

Plaintiff,

v.

AGRICOLA DEL MAR BCS, et al.,

Defendants.
-----X

07 Civ. 2008 (CM) (HBP)

ORDER TO COMPEL

On February 20, 2008, the Court ordered Judgment in favor of plaintiff-judgment creditor Export-Import Bank of the United States ("Ex-Im") in the amount \$1,106,905.77, plus interest against defendants judgment-debtors Agricola Del Mar BCS, S.A. de C.V., Grupo Batiz CGH, S.A. de C.V., Greenver, S.A. de C.V., Invernaderos La Pequena Joya, S.A. de C.V., Raul Guillermo Batiz Guillen, and Jorge Guillermo Batiz Guillen (collectively "Judgment Debtors").

On June 4, 2009, the Second Circuit Court of Appeals affirmed the judgment of the district court. Export-Import Bank of the United States v. Agricola del Mar BCS, S.A. de C.V., et al., 334 Fed. Appx. 353 (2d Cir. 2009). The Second Circuit Court of Appeals subsequently denied the Judgment Debtors' request for rehearing en banc.

On August 14, 2009, Ex-Im served Post-Judgment Discovery Requests, including interrogatories and document requests, on two of the Judgment Debtors, Jorge Guillermo Batiz Guillen and Raul Guillermo Batiz Guillen (the "Guillermo Batiz Guillen Defendants") pursuant to 28 U.S.C. § 3015 and Rules 33, 34, and 69 of the Federal Rules of Civil Procedure. The Post-Judgment Discovery Requests seek documents and information relating to the assets of the Guillermo Batiz Guillen Defendants. The Guillermo Batiz Guillen Defendants have not

responded to the Post-Judgment Discovery Requests.

On October 23, 2009, pursuant to Local Rule 37.2, Ex-Im requested that the Court schedule a conference in anticipation of Ex-Im's motion to compel the Guillermo Batiz Guillen Defendants to respond to the post judgment discovery requests. The Court held a conference on December 10, 2009.

On December 29, 2009, the Court issued an Order to Show Cause to the Guillermo Batiz Guillen Defendants, directing them to appear on January 14, 2010 and show cause why an order should not be issued, pursuant to Rule 37 of the Federal Rules of Civil Procedure, compelling them to respond to Ex-Im's discovery requests and ordering any other appropriate relief pursuant to Rule 37.

By letter, dated January 8, 2010, the Guillermo Batiz Guillen Defendants informed the Court that they had received the Court's Order to Show Cause, but that they were unable to appear on January 14, 2010.

IT IS HEREBY ORDERED THAT:


1. No later than March 1, 2010, the Guillermo Batiz Guillen Defendants shall answer Ex-Im's Post-Judgment Discovery Demands; and
2. To the extent that the Guillermo Batiz Guillen Defendants withhold any response to Ex-Im's interrogatories or any document responsive to Ex-Im's document requests, they shall provide Ex-Im with a log that, consistent with the requirements of Local Civil Rule 26.2, identifies the specific document or information withheld and sets forth their asserted basis for withholding such document or information; and

3. In the event that the Guillermo Batiz Guillen Defendants fail to comply with this Order, Ex-Im may move for further relief pursuant to Federal Rule of Civil Procedure 37.

Dated: New York, New York

~~January~~ , 2010

MARCH 8, 2010



HENRY B. PITMAN

~~CHIEF~~ UNITED STATES MAGISTRATE JUDGE